

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DANA BOWERS	)	
	)	
COMPLAINANT	)	
	)	CASE NO.
V.	)	2010-00447
	)	
WINDSTREAM KENTUCKY EAST, LLC	)	
	)	
DEFENDANT	)	

O R D E R

On April 8, 2011, the Commission issued an Order establishing a procedural schedule in the above-captioned case. The Order required, inter alia, the filing of discovery requests by April 29, 2011 and answers to those discovery requests to be filed by May 13, 2011.

On April 21, 2011, Windstream Kentucky East, LLC (“Windstream”) filed with the Commission a motion to amend the procedural schedule by extending the filing deadlines in the procedural schedule by two weeks. As grounds for its motion, Windstream states that several of the due dates for filings conflict with procedural deadlines in a federal court action in the United States District Court for Western District of Kentucky.<sup>1</sup> Windstream asserts that it “anticipates the scope of the Commission and

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<sup>1</sup> Dana Bowers v. Windstream Kentucky East, LLC at al., Civil Action No. 3:09-CV-440 (“court action” or “judicial proceeding”).

federal court proceedings will make it unduly burdensome for it to comply with all of the scheduling deadlines as presently constituted.”<sup>2</sup>

Counsel for Dana Bowers filed a response to Windstream’s motion as well as a cross-motion to abbreviate the procedural schedule. Ms. Bowers alleges that further delay of the proceeding will allow Windstream to continue to collect an unapproved rate from Ms. Bowers as well as other similarly situated customers. Ms. Bowers contends that the procedural schedule is already unnecessarily lengthy—much more in depth than is necessary to address the two issues that the District Court sent to the Commission for resolution. Ms. Bowers notes that the Commission’s procedural schedule contains filing dates that continue past the District Court’s discovery cut off date of August 1, 2011. Ms. Bowers asserts that the last day for dispositive motions in the federal action is September 12, 2011, which, Ms. Bowers notes, makes it impossible for the Commission to answer the questions sent to it by the District Court before the time for the filing of dispositive motions has passed. Ms. Bowers requests that the Commission shorten the procedural schedule by eliminating one round of discovery and the filing of rebuttal testimony. Ms. Bowers contends that this will prevent the federal action from being delayed by the District Court’s referral of the issues to the Commission. In the alternative, Ms. Bowers requests that, if the Commission grants Windstream’s motion for an enlargement of time, the Commission shorten the remaining procedural schedule by two weeks.

The Commission finds that Windstream has provided good cause to extend the filing deadline by two weeks. The Commission also finds that Ms. Bowers has provided

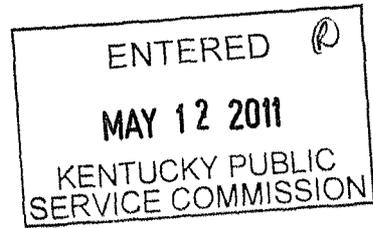
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<sup>2</sup> Motion to Amend Procedural Schedule at 2.

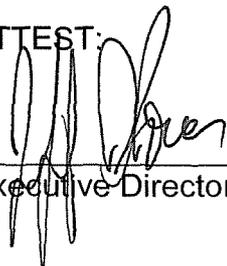
sufficient cause to shorten the remaining discovery period by removing supplemental data requests. IT IS THEREFORE ORDERED that:

1. Windstream's motion is granted.
2. Ms. Bower's motion is denied in part and granted in part.
3. The parties shall follow the schedule attached as Appendix A to this Order.

By the Commission



ATTEST:

  
\_\_\_\_\_  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2010-00447 DATED **MAY 12 2011**

PROCEDURAL SCHEDULE

Parties Shall File and Serve Discovery Requests  
no later than..... May 13, 2011

Answers to Discovery Requests to be filed..... May 27, 2011

Simultaneous Prefiled  
Direct Testimony to be filed ..... June 10, 2011

Simultaneous Prefiled  
Rebuttal Testimony to be filed ..... June 24, 2011

Request for hearing, if any, to be filed ..... July 1, 2011

Simultaneous Initial Briefs to be filed ..... 14 days after video  
transcript is available, if a  
hearing is granted, other-  
wise due July 22, 2011

Simultaneous Post-Hearing Reply Briefs  
to be filed ..... 7 days after receipt of initial briefs

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